

REMARKS

Claim Rejections - 35 USC §102

At section 3, claims 1-9, 11-14, 23-29, 33-46, 51-55, and 58 are rejected under 35 USC §102(e) as anticipated in view of US patent 6,600,917, Maupin. With respect to claim 1, it is asserted that Maupin discloses a method with the actions recited in claim 1. Specific reference is made to Figure 6, steps 1-4, column 2, line 64 through column 3, line 20, column 6, lines 12-19, column 8, line 36 through column 9, line 8, column 1, lines 34-55, and column 2, lines 57-61.

As was discussed in applicant's communication of May 12, 2008¹, Maupin is directed to telecommunications network broadcasting of service capabilities in which a network prepares a capabilities message which is broadcast by a base station to advise mobile user equipment units of services supported by the base station. Such announcing of general capabilities of a network is not the same as listing certain specific capabilities required from terminals as set forth in claim 1. Thus, in claim 1, the action of transmitting a broadcast or multicast message indicating terminal capability requirements for point-to-multipoint Multimedia Broadcast/Multicast Service service reception in a wireless system over an air interface to at least one terminal is performed within a service range in order to allow the terminal to determine whether it is capable of receiving the service or not, and further setting forth that the requirements in relation to at least one of several items; namely, time slot configuration, modulation type, bit rate, and capability class.

The Office relies on steps 1-4 of Figure 6 and the above-noted passages in Maupin. For the reasons set forth below, applicant respectfully submits that the stated reliance upon Maupin does not anticipate claim 1.

¹ Applicant's amendment mailed on May 12, 2008 is incorrectly referred to as filed on 29 March 2005 in the Office Action Summary.

More particularly, Figure 6, steps 1-4 of Maupin (actually steps 6-1 through 6-4) disclose a network preparing and broadcasting a capabilities message (step 6-1) a mobile terminal receiving this capabilities message (step 6-2), the mobile terminal decoding this capabilities message (step 6-3), and the mobile terminal comparing a bitmap received as a part of the message to its own stored capabilities record of the terminal (step 6-4).

None of the above-recited steps of Maupin discuss anything about indicating "terminal capability requirements" as specifically required by claim 1 since the steps in Maupin only speak about indicating network capabilities and not terminal capability requirements. None of the steps in Maupin discuss anything about point-to-multipoint Multimedia Broadcast/Multicast Service service reception as specifically required by claim 1, because in Maupin only the very general word "capabilities" appears in the steps shown in Figure 6 thereof. None of these steps disclose the requirement in claim 1 of transmitting such terminal capability requirements to at least one terminal within a service range "in order to allow the terminal to determine whether it is capable of receiving the service or not", because the steps in Maupin only suggest that the terminal discovers what is available from the network side. None of these steps discloses the specific requirements, of which at least one is required, in claim 1; namely, time slot configuration, modulation type, bit rate, and capability class, because in Maupin only general words such as "capabilities" and "RAT/generation" are used (RAT being an acronym for radio access technology).

As a result, it is respectfully submitted that claim 1 is not anticipated by Figure 6 of Maupin.

Regarding independent apparatus claim 23, this apparatus comprises a receiver configured to receive a message indicating requirements for point-to-multipoint Multimedia Broadcast/Multicast Service service reception and thus is from the point of view of an apparatus that receives such a message rather than transmitting such requirements. Maupin in the steps shown in Figure 6 thereof does not disclose anything about receiving "a message indicating requirements for point-to-multipoint Multimedia

Broadcast/Multicast Service service reception", because only the general word "capabilities" appears in the steps of Figure 6. Furthermore, none of the steps disclose a processor configured to determine "whether said apparatus is capable of receiving the service or not", because the steps in Maupin only suggest that the terminal finds out what is available from the network side. None of the steps in Maupin specifically disclose at least one of the requirements being time slot configuration, modulation type, bit rate, and capability class, because they only use the general words "capabilities" and "RAT/generation" as discussed above with respect to claim 1.

Independent apparatus claim 33 is directed to an apparatus having a transmitter to send a message indicating requirements in relation to at least one of the following: time slot configuration, modulation type, bit rate, and capability class for point-to-multipoint Multimedia Broadcast/Multicast Service service reception to be delivered to at least one wireless terminal within the service range in order to allow said wireless terminal to determine whether it is capable of receiving the service or not. It is thus directed to an apparatus similar to the actions recited in claim 1 and, for similar reasons, is also not disclosed by Figure 6 of Maupin.

In particular, Maupin in Figure 6 does not disclose any steps that disclose anything about message indicating requirements, because the message in the steps recited in Maupin only indicate what is available from the network side. None of the steps in Maupin disclose the specific requirements being at least one of time slot configuration, modulation type, bit rate, and capability class, because all of the steps in Maupin only use the general words "capabilities" and "RAT/generation". None of the steps in Maupin disclose anything about point-to-multipoint Multimedia Broadcast/Multicast Service service reception, because the steps in Maupin only use the general word "capabilities".

Furthermore, none of the steps in Maupin disclose that such a message is sent and delivered to at least one wireless terminal within the service range in order "to allow said wireless terminal to determine whether it is capable of receiving the service or not", because Maupin only suggests that the terminal discovers what is available from the

network side. For all of the foregoing reasons, independent apparatus claim 33 is not anticipated by Figure 6 of Maupin.

Independent system claim 51 comprises a network element and at least one wireless terminal and thus is similar to a combination of independent apparatus claims 23 and 33. For similar reasons as discussed above with respect to claims 1, 23, and 33, Maupin does not disclose steps that discuss anything about message indicating requirements, because in Maupin the message only indicates what is available for the network side. None of the steps as shown in Figure 6 of Maupin discuss anything about point-to-multipoint Multimedia Broadcast/Multicast Service service reception as required by claim 51, because in Maupin the general word "capabilities" appears for the steps in Figure 6. None of the steps in Maupin discloses the specific requirement being at least one of time slot configuration, modulation type, bit rate, and capability class, because in Maupin only the general words "capabilities" and "RAT/generation" are used.

Furthermore, none of the steps in Maupin discuss anything about broadcast message indicating requirements for point-to-multipoint service reception as required by claim 51, because the message in the steps of Maupin only indicates what is available from the network side. None of the steps in Maupin discuss anything about a "part configured to determine...whether it is capable of receiving the service or not" as specifically required by claim 51, because the steps in Maupin only suggest that the terminal determines what is available for the network side. Therefore, claim 51 is not anticipated by Figure 6 of Maupin.

Independent computer readable medium claim 55 is stored with machine-readable instructions that upon execution by a programmable apparatus make the apparatus receive a message indicating requirements for point-to-multipoint Multimedia Broadcast/Multicast Service service reception. In Maupin, the steps shown in Figure 6 only discuss an indication of what is available from the network side and the steps only use the general words "capabilities" and "RAT/generation". None of the steps in Maupin disclose the specific requirements of at least one of time slot configuration, modulation

type, bit rate, and capability class, because they only use the general words "capabilities" and "RAT/generation". For all of these reasons, claim 55 is also not anticipated by Figure 6 of Maupin.

Independent computer readable medium claim 58 is directed to such a medium stored with machine-readable instructions that upon execution by a programmable apparatus make the apparatus receive a notification from a terminal in relation to at least one of the following: time slot configuration, modulation type, bit rate, and capability class and deduce on the basis of said notification whether the terminal is capable of receiving a point-to-multipoint Multimedia Broadcast/Multicast Service service or not.

In Maupin, none of the steps shown in Figure 6 discuss anything about time slot configuration, modulation type, bit rate, and capability class as required by claim 58, because in Maupin the steps only use the general words "capabilities" and "RAT/generation". None of the steps in Maupin disclose anything that would make the terminal "deduce on the basis of said notification whether the terminal is capable of receiving a point-to-multipoint Multimedia Broadcast/Multicast Service service or not" as also required by claim 58, because Maupin only discusses the capabilities offered by the network and because the steps do not detail the services beyond use of the general words "capabilities" and "RAT/generation". For all of these reasons, independent claim 58 is also not anticipated by Figure 6 of Maupin.

Furthermore, the specific passages in Maupin asserted by the Office in section 3 of the final Office Action also do not disclose or suggest the present invention as claimed, including independent claims 1, 23, 33, 51, 55, and 58.

More particularly, column 2, line 64 through column 3, line 20 of Maupin suggest that the base station broadcast a capabilities message, including a supported services bitmap. Maupin clearly and concisely explains that this message announces what services the network element supports. Such an announcement is not the same as the claimed invention, including the requirement of "message indicating requirements for point-to-multipoint Multimedia Broadcast/Multicast Service service reception" as required

by each of the above-recited independent claims.

Furthermore, column 3, lines 1-5 clearly explains how the message indicates what radio access technology type and generation is available and contains preferred network identifiers. None of the features specifically discussed above with respect to the above-recited independent claims are disclosed in this passage of Maupin.

Column 6, lines 12-19 of Maupin only explains that the capabilities message is prepared by a radio network controller and transmitted by a base station. This passage also does not disclose any of the claimed features of the independent claims as discussed above.

The cited passage at column 8, line 36 through column 9, line 8 of Maupin contains an extensive explanation of the steps performed as shown in Figure 6. This passage makes clear what has been discussed above with regard to Figure 6; namely, the capabilities message is a message that indicates network capabilities which is not the same as indicating terminal requirements. This passage explains how the mobile terminal has a previously stored capabilities record, which indicates its capabilities in terms of network type (such as GSM, UMTS) and frequency band (such as 900 MHz, 1900 MHz, frequency band #1). A complete teaching of what the bits of the capabilities record mean is also found in Maupin beginning at column 6, line 56. In particular, each bit is defined as a radio frequency band of a particular radio access technology. In particular, at column 7, line 16, it is disclosed that the "radio access technologies" are, for example, GSM, IS-95, IS-136, AMPS, UMTS, CDMA 2000, and UWC-136, and the radio frequency bands are exactly that; namely, frequency bands in megahertz. Thus, one is drawn to the same conclusion; namely, that in Maupin, announcing, for example, that this base station offers GSM at 1900 MHz as access technology, is not the same as applicant's claim limitation of "message indicating requirements for point-to-multipoint Multimedia Broadcast/Multicast Service service reception". Thus, this passage in Maupin also does not disclose the claimed features discussed above with regard to the independent claims.

Column 1, lines 34-55 of Maupin list second generation radio access technologies (GSM, IS-136, IS-95, PDC, AMPS) as discussed above. The end of this passage explains that a radio access technology defines some particular functionalities such as frequency band, RF power, encryption, and time slot availability (for TDMA). None of these functionalities is discussed as "a requirement for point-to-multipoint Multimedia Broadcast/Multicast Service service reception" as required by each of the above-recited independent claims, because the particular functionalities discussed in Maupin are general features of some radio access technologies. Additionally, it is noted that announcing network capabilities as performed in Maupin is not the same as signaling what are the requirements of a mobile terminal for certain types of operation such as set forth in the independent claims of the present application.

For all of these reasons, the cited passages relied upon by the Office do not disclose the above-recited features of the independent claims.

Finally, column 2, lines 57-61 of Maupin provide unmistakable evidence of why Maupin speaks about a different invention than that of applicant's claimed invention. In Maupin, as set forth in this passage, it literally discusses that the mobile terminal should determine what radio access technology types and generations are available in a cell. This is similar to what was explained above; namely, that Maupin sees the terminal as something that goes into what is offered by the network; that is, what terminals are available in the network that can be selected. Maupin does not disclose or suggest the situation from the other way around; namely, as placing requirements with respect to the mobile terminal; that is, what the mobile terminal must have in order to be able to receive a particular, designated service from the network specifically, a point-to-multipoint Multimedia Broadcast/Multicast Service service reception.

For all of the foregoing reasons, it is respectfully submitted that independent claims 1, 23, 33, 51, 55, and 58 are not anticipated or suggested by Maupin.

Since each of the above-recited independent claims are believed to be allowable in view of Maupin, it is respectfully submitted that dependent claims 2-9, 11-14, 24-29, 34-

46, and 52-54 are also believed to be not anticipated or suggested by Maupin at least in view of such dependency from said independent claims.

At section 4, claims 15, 16, 19, 20, 30, 47, and 48 are rejected under 35 USC §102(b) as anticipated by US patent 6,006,091, Lupien. With regard to claim 15, it is asserted that Lupien discloses a method comprising the actions recited therein with specific reference to Figure 1, column 5, lines 30-42, column 1, lines 15-17, column 5, lines 45-55, column 6, line 30 through column 7, line 10, and column 9, lines 1-15.

As argued in applicant's prior response mailed on May 12, 2008, Lupien is directed to a method and a cellular telecommunication network of informing the network of a plurality of operating capabilities of a mobile terminal. The capability request may be sent on a paging channel or an access response channel and the capability report may include all of the capabilities of the mobile terminal or may include a specified capability set (Lupien, Abstract). Thus, it is clear that Lupien discusses general capabilities, but does not disclose or suggest specific capabilities such as the claimed point-to-multipoint Multimedia Broadcast/Multicast Service service reception as required by claim 15.

In particular, it is seen at column 3, lines 57-61 of Lupien an exemplary list of capabilities; namely, supported bands, DTC (digital traffic channel) rate support, alternate/allowed voice coders, SOC support, BSMC support, and protocol version, and 800 MHz analog speech. None of these capabilities is in any way related to a terminal capability for point-to-multipoint Multimedia Broadcast/Multicast Service service reception in a wireless communication system as required by claim 15.

In this regard, please note that claim 15 performs the action of informing a terminals capabilities for point-to-multipoint Multimedia Broadcast/Multicast Service service reception in a wireless communication system in relation to at least one of the following: time slot configuration, modulation type, bit rate, and capability class. This makes clear that it is not announcing, for example, bit rate in general, but such requirements in relation to point-to-multipoint Multimedia Broadcast/Multicast Service service reception.

For all of the foregoing reasons, it is therefore respectfully submitted that claim 15 is not anticipated or suggested by Lupien.

Furthermore, in response to section 1 of the final Official Action, although the open-ended transition term "comprising" is used in claim 1, claim 1 nevertheless specifies that said requirements are indicated in relation to at least one of the following: time slot configuration, modulation type, bit rate, and capability class. Thus, at least one of such requirements must be present regardless of any other requirements. Therefore, applicant respectfully submits that its arguments are persuasive.

For similar reasons, independent apparatus claim 30 and independent apparatus claim 47 are also not anticipated by Lupien. In this regard, applicant notes that while Lupien discusses making it known to announce, for example, DTC rate support from a mobile terminal to a wireless communication network, that such is with regard to a general reference for announcing such rate support. Such general reference announcing, as performed in Lupien, is not the same as announcing "capabilities in relation to at least one of the following: time slot configuration, modulation type, bit rate, and capability class, to a wireless communication system for the examination of fulfillment of point-to-multipoint Multimedia Broadcast/Multicast Service service reception requirements," as required by claim 30.

A general reference to making a network node receive announcements of rate support, such as discussed in Lupien, is not the same as making a network node "receive a notification from a terminal in relation to at least one of the following: time slot configuration, modulation type, bit rate, and capability class and deduce on the basis of said notification whether the terminal is capable of receiving a point-to-multipoint Multimedia Broadcast/Multicast Service service or not," as required by claim 47.

For these reasons as well, independent claims 30 and 47 are not anticipated or suggested by Lupien.

Furthermore, dependent claims 16, 19, 20, and 48, all of which depend from an independent claim which is believed to be allowable, are also believed to be allowable at

least in view of such dependency.

At section 5, claims 56 and 57 are rejected under 35 USC §102(b) as anticipated by US patent application publication 2006/0156370, Parantainen. This publication is simply the publication of the present application and consequently is not a reference with regard to the present application.

In view of the foregoing, it is respectfully submitted that the present application is distinguished over the cited art and reconsideration of the rejection of the claims is earnestly solicited.

The undersigned respectfully submits that no fee is due for filing this Request for Reconsideration. The Commissioner is hereby authorized to charge to deposit account 23-0442 any fee deficiency required to submit this paper.

Respectfully submitted,

Dated: November 10, 2008

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
Bradford Green, Building Five
755 Main Street, P.O. Box 224
Monroe, CT 06468
Telephone: (203) 261-1234
Facsimile: (203) 261-5676
USPTO Customer No. 004955

/Alfred A. Fressola/
Attorney for Applicant
Registration No. 27,550